

Appl. No. 10/034,776
Amdt. dated 3/17/05
Reply to Office Action of 12/16/04

PATENT
Docket: 010555

REMARKS

In this Amendment, Applicant proposes to amend claim 35 to correct a minor typographical error. Applicant respectfully requests entry of this Amendment, as it would create no new issues nor require any further search. Rather, the Amendment merely corrects a typographical error, and therefore would place the application in better form for allowance or appeal. Claims 1-36 remain pending in the application.

In the Office Action, the Examiner rejected claims 1-36 under 35 U.S.C. 103(a) as being unpatentable over European Patent Application No. 0,321,672 A2 to Lynk (Lynk) in view of Great Britain Published Patent Application No. 2,336,975A to Stevens (Stevens).

Applicant respectfully traverse the rejection of claims 1-36 in view of Lynk and Stevens. Neither Lynk nor Stevens, taken alone or in combination, discloses or suggests the inventions defined by Applicant's claims. Moreover, Lynk and Stevens provide no teaching that would have suggested modification to arrive at the claimed invention.

Although the Examiner again relied on both Lynk and Stevens, the grounds of rejection seem to have shifted significantly, relative to the previous Office Action. In the final rejection, the Examiner relied principally on newly identified passages within Stevens concerning storage of the contents of a call when a communication channel is unavailable. In particular, in the "Response to Arguments" section of the Office Action, the Examiner relied extensively on new observations concerning the Stevens reference.

Applicant is somewhat confused by the Examiner's analysis. Although the "Response to Arguments" section referred to the Stevens reference, the grounds of rejection advanced under point 2 of the Office Action seemed to be identical to the grounds of rejection in the previous Office Action. The Examiner's Response to Arguments seemed to be contrary to the grounds of rejection in point 2. For example, it appears that the Examiner relied on various aspects of Stevens, in place of teachings previously alleged to be present in Lynk.

In any event, Applicants respectfully submit that the Examiner's reliance on Stevens, relative to the requirements of Applicant's claims, is misplaced. The Examiner seems to have misinterpreted either the Stevens reference or the pertinent requirements of Applicant's claims. The differences between the claimed invention and the prior art are discussed in detail below.

For purposes of conciseness, Applicant's remarks are generally focused on the Stevens reference, and the new positions advanced by the Examiner in the "Response to Arguments"

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section of the Office Action. However, Applicant maintains that the arguments raised in the previous Amendment continue to be applicable.

For example, Lynk makes no mention of the transmission or reception of audio with an access request, nor termination of an audio transmission when an access request is denied. In contrast, Lynk describes the buffering of voice data when a subscriber initiates a transmission by depressing a push-to-talk (PTT) button, followed by delayed transmission of the voice data after the grant of an access request. Expanded reliance on Stevens in the final Office Action seems to indicate that the Examiner agrees, at least in part, with Applicant's differentiation of Lynk.

Stevens describes a mobile radio system in which the contents of a call are stored when a suitable communication path for a target mobile radio unit is not available. The call contents are stored as a message for later transmission to the target mobile radio unit when a communication path becomes available. According to Stevens, the contents of a call can be stored in a mobile radio unit or in a base station. In each case, however, the call contents are stored when a communication path is not available.¹ Stevens indicates that this approach "contrasts with . . . simply refusing to connect a call if the communication path to . . . at least one of the target mobile radio units is not available."²

If a communication path is available, as indicated by the grant of an access request, Stevens indicates that the call proceeds in a normal manner.³ The call contents may be stored in a base station or mobile radio unit, as described above. In one embodiment, Stevens (like Lynk) describes the buffering of a call in a mobile radio unit, followed by transmission of the buffered call when a suitable communication path is available. Hence, Stevens describes (1) the storage of a call when a communication path is not available, or (2) the local buffering of a call in a mobile radio unit for transmission when a suitable communication path becomes available.

For purposes of review, claims 1-11, 20-25, 33 require transmission of a request for access to a broadcast link in a point-to-multipoint communication system, transmission of audio

¹ Abstract; page 2, lines 10-12 ("if a suitable communication path is not available, then storing the contents of said call as a message for later transmission"); page 2, lines 31-35 (means to stored the contents of said call as a message for later transmission to those mobile radio units for which it is determined that no suitable communication path is available"); page 3, lines 1-10 (it is checked if there is a suitable communication path form the caller to the target mobile radio unit . . . If a suitable communication path is not available, the contents of the call are stored for future transmission").

² Page 3, line 36, to page 4, line 3.

³ Page 3, lines 25-28 ("Where a suitable communication path . . . is available the call most preferably proceeds as normal").

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with the access request, and termination of the audio transmission in the event the access request is denied.

Claims 12-19 and 34 require reception of a request for access to a broadcast link in a point-to-multipoint communication system, reception of audio with the access request, and transmission of the audio via the broadcast link in the event the access request is granted.

Claims 26-32 define an arbitration controller for a point-to-multipoint communication system comprising a processor that receives a request for access to a broadcast link from a wireless communication device, wherein the wireless communication device transmits audio with the request for access, and the processor determines whether to grant the access request, and directs transmission of the audio via the broadcast link in the event the access request is granted.

Finally, claims 35 and 36 require transmission of a request for access to a broadcast link in a point-to-multipoint communication system from a wireless communication device, reception of audio from a user of the wireless communication device, transmission of the audio from the wireless communication device before receiving an acknowledgement that the access request is granted, and termination of the audio transmission if a denial of the access request is received.

Contrary to the requirements of claims 1-11, 20-25, and 33, claims 26-32, or claims 35 and 36, Stevens does not disclose transmission of audio with an access request. Similarly, Stevens does not disclose reception of audio with an access request, as defined by claims 12-19 and 34. Stevens makes no mention of the transmission or reception of audio with an access request. Instead, Stevens describes storage of call content only when it is determined that a suitable communication path is not available, i.e., after an access request has actually been denied.

Stevens also fails to disclose termination of an audio transmission in the event the access request is denied, as set forth in claims 1-11, 20-25, 33, 35 and 36. On the contrary, Stevens discloses storage and retention of call content, not termination, when an access request is denied. In the Stevens system, the stored call content is retained until a suitable communication path becomes available. Thus, the approach described by Stevens represents virtually the opposite of that specified by claims 1-11, 20-25, 33, 35 and 36. Rather than terminating the transmission of a call when an access request is denied, Stevens stores the call contents for later transmission, thereby preserving the call.

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Stevens fails to disclose or suggest any embodiment in which audio is transmitted or received with an access request. In her analysis, however, the Examiner asserted that Stevens, at page 5, line 37, to page 6, line 12, describes that audio is transmitted to a base station, "along with the access request." The Examiner has misinterpreted the Stevens reference in this regard. Stevens does not provide such a teaching. The Examiner reasoned that, for the contents of a call to be stored at a base station, it must first be transmitted from a mobile radio unit. Certainly, call contents must be transmitted in order to be stored at the base station. Yet, this does not mean that the call contents are transmitted with the access request. Rather, as described by Stevens, the call contents are stored only after an access request is denied, i.e., when a suitable communication path is not available.

Stevens also fails to disclose or suggest any embodiment in which an audio transmission is terminated in the event an access request is denied. The Examiner noted, with reference to page 3, line 36, to page 4, line 13, that Stevens describes "refusing to connect a call if the communication path . . . is not available," and equated "refusing to connect" with terminating an audio transmission. The Examiner's reasoning is unsupported by the cited passage from the Stevens reference.

Stevens does not refer to terminating an audio transmission that has been transmitted with an access request. Instead, Stevens describes the prior art technique of sending nothing at all if a communication path is not available. Logically, it is not possible to terminate an audio transmission that has never even commenced. Even if "broadly interpreted," as suggested by the Examiner, this passage in the Stevens reference concerning connection refusal cannot be reasonably construed to meet the requirements of Applicant's claims concerning termination of an audio transmission.

Moreover, as apparently recognized by the Examiner, the actual technique described by Stevens does not involve termination, but rather retention, of call contents for later transmission when a communication path becomes available. Accordingly, in discussing the prior art technique of refusing connection and disclosing a technique in which a call is stored rather than terminated, Stevens teaches away from termination of an audio transmission.

Dependent claims 3, 15 and 22 specifically require that the audio is transmitted before receiving an acknowledgement that the access request is granted. Claims 4, 16, and 23 require that the audio is transmitted without receiving an acknowledgement that the access request is

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granted. With respect to these limitations, the Examiner pointed to page 3, lines 25-35, of Stevens, "where broadly interpreted, the audio data is transmitted to the BS or transceiver without receiving an acknowledgement that the access request is granted." The Examiner again appears to have misinterpreted the Stevens reference.

The cited passage in Stevens explicitly states that a call proceeds when a suitable communication path is available, i.e., when an access request is granted. Hence, where multiple communication paths are involved, Stevens requires that at least some of the communication paths are available prior to transmission of a call. If the Examiner's point is that Stevens describes transmission of call contents when some of the communication paths are not available, this seems to overlook the fact that at least one communication path must be available, and that access is granted with respect to that communication path. Therefore, in Stevens, audio clearly is not transmitted before receiving an acknowledgement that an access request is granted.

Claims 5, 17, 24 and 30 specify that at least a portion of the audio transmission serves as, or is interpreted as, the access request. For these features, the Examiner again pointed to Col. 7, lines 4-12, of Lynk. As in the previous Office Action, Applicant is confused by the Examiner's reference to this section of Lynk. The Examiner quoted the following passage: "A channel request will go to the central controller (122, 123; the controller will respond with channel assignment and grant as one becomes available (124, 125), which may occur before the responding party has finished speaking." However, the quoted passage is at Col. 6, line 56, to Col. 7, line 2.

With respect to the quoted passage, the Examiner stated that "the responding caller's voice response corresponds to a channel or access request" and that the "controller may grant the access while the respondent party is still speaking (portion of the audio transmission serving as access requestors)." Applicant respectfully submits that the Examiner's comparison of the cited features of Lynk to the requirements of the claimed invention is misplaced.

In the cited passage, Lynk does not refer to the use of an audio transmission as an access request. Instead, Lynk very clearly states that "a channel request will go to the central controller." Then, the controller will respond with a channel assignment and grant, when a channel becomes available. The subscriber may continue speaking while the channel request is being processed. However, the speech content does not in any way form the channel request.

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Instead, consistent with the basic objectives of the Lynk reference, the speech content is buffered for transmission once the channel request is actually granted.

Lynk makes no mention of the transmission of audio with an access request, or the use of an audio transmission to serve as an access request. The generation of a channel request, and the buffering of voice content, are completely separate aspects of the Lynk system. As previously pointed out by Applicant, the cited passage in Lynk describes the process of voice buffering, and says nothing about the use of at least a portion of an audio transmission as the access request. Again, the Lynk reference does not describe transmission of audio until after an access request is granted. Therefore, it is unclear how a voice response could possibly be equated with a channel request, which is sent separately in the Lynk system. In view of these fundamental differences, the Examiner's position with respect to claims 5, 17, 24 and 30 is untenable.

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CONCLUSION

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 17-0026. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated: 3/17/05

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